

DP-305003

REMARKS

Claims 1-20 are pending in the present Application. Claims 1 – 20 have been cancelled, and Claims 21 – 32 have been added, leaving Claims 21 – 32 for consideration upon entry of the present Amendment. Support for the new claims can at least be found in the claims and the specification as originally filed, such as in Claims 1 – 20 and the specification, page 2, lines 24 – 32.

No new matter has been introduced by these amendments or new claims. Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

Drawing Objections

The drawings are object to because the drawings must show every feature of the invention specified in the claims. "Therefore, the "catalytic converter unit"... gasket... must be shown or the feature(s) canceled from the claim(s)." (Office Action, Page 2) The drawings and the specification have been amended to address these objections.

The drawings have been objected to because the reference sign "26" is not in the figures. Figures 1 – 5 have been amended, thereby rendering this objection moot.

Reconsideration and withdrawal of these objections are respectfully requested.

Claim Objections

Claims 3 – 6 and 11 were objected to due to informalities. These claims have been cancelled, thereby rendering these objections moot.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 1-3, 5-6, and 8-15 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 5,615,551 to Matsushima. Applicants respectfully traverse this rejection.

To anticipate a claim, a reference must disclose each and every element of the claim. *Lewmar Marine v. Variant Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987).

The claims of the present application are directed to an exhaust system component

DP-305003

comprising a shell having an outer wall and an inner wall, wherein the shell forms a bushing that defines an opening through and connects the outer wall and the inner wall. Matsushima discloses a single walled device with a support boss welded to the shell to receive a sensor. For at least the reason that Matsushima fails to disclose a shell having an outer wall and an inner wall, wherein the shell forms a bushing that defines an opening through and connects the outer wall and the inner wall, Matsushima fails to anticipate the present claims. Reconsideration and withdrawal of this rejection are respectfully requested.

Claim Rejections Under 35 U.S.C. § 103(a)

Claim 4 stands rejected under 35 U.S.C. §103(a), as allegedly unpatentable over U.S. Patent No. 5,615,551 to Matsushima in view of WO Patent No. 98-45584 to Celerier et al., which corresponds to U.S. Patent Publication No. 2001/0025419, in view of U.S. Patent No. 6,555,070 to Krüger. Claim 7 stands rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 5,615,551 to Matsushima in view of WO Patent No. 98-45584 to Celerier et al. (which corresponds to U.S. Patent Publication No. 2001/0025419), in view of U.S. Patent No. 4,883,643 to Nishio et al. Applicants respectfully traverse this rejection. (Applicants note that Celerier et al. is noted in the above rejections, but it is not mentioned in the rejection how or why Celerier et al. is relied upon. It is merely mentioned in the summary of the rejection. Hence, Applicants do not address Celerier et al. since it does not appear to be relied upon by the Examiner.)

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness, i.e., that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

DP-305003

The present application teaches and claims an exhaust system component. The component comprises a shell and an oxygen sensor. The shell has an outer wall and an inner wall, wherein the shell forms a bushing that defines an opening through and connects the outer wall and the inner wall. The oxygen sensor is disposed through the bushing such that a portion of the oxygen sensor extends into an interior portion of the component. (Claim 21)

As discussed above, Matsushima discloses a single walled shell with a catalyst module and an oxygen sensor. The shell has a support boss welded to the shell to receive the sensor:

the sensor support boss 34... [is] secured to the downstream-end portion 14C of the lower shell 14 of the tubular shell 10 by a suitable manner such as welding....

The sensor support boss 34 has one axial end 48 tapered to be flush with the sloped outer surface of the downstream-end portion 14C upon fitting, and an opposite axial end 50 contacted in face-to-face relation with a radial face 52 of a flange 54 which is formed on the oxygen sensor 36 as shown in FIG. 4.

(Col. 2, lines 48 - Col. 3, line 1)

Krüger discloses an exhaust component. He teaches that

[A] lambda probe 60 is screwed into the internal screw thread in the bush 59 and projects through the latter into the interior space area which is surrounded by the inner inlet wall 45. A bush 61 is welded into a hole in the line 57 downstream of the catalyst means 41

(Col. 9, lines 1 - 5) Krüger is relied upon to teach "an insulated wall construction having an inner wall spaced from an outer wall." (Office Action, Page 6) However, Krüger teaches welding a bushing into a hole, and fails to teach a hole formed from the shell.

Nishio et al. are directed to oxygen sensors. Nishio et al. are relied upon in the Office Action for disclosing "a gasket for preventing leakage of the exhaust gas from between the sensor and the wall". (Office Action, Page 7; It is noted that the section of Nishio et al. relied upon is not cited.) In Figure 1(a), Nishio et al. show a gasket 16 as an integral part of the sensor.

A gasket 16 prevents leakage of the exhaust gas from between the sensor 1 and the wall (not shown) of the engine and is provided at the portion of the fixture 15 which is to make contact with the wall of the engine.

(Col. 2, lines 60 - 63)

None of the references, however, teach a shell or endcone with an inner wall and an outer wall wherein the shell forms a bushing that defines an opening through and connects the outer

DP-305003

wall and the inner wall, and wherein an oxygen sensor is disposed through the bushing. For at least this reason, alone or combined, these references fail to teach or suggest the present claims. Hence, a prima facie case of obviousness has not been established, and the present claims are allowable over the prior art of record. Reconsideration and withdrawal of this rejection are respectfully requested.

Applicants further note that the Examiner merely states that it would be obvious to combine Krüger with Matsushima "to enhance the insulation benefits thereof", but does not show explain why Matsushima would desire to "enhance the insulation benefits" (and therefore the cost), there is not motivation from the references provided in the office action. (Page 6) Similarly, with respect to Nishio et al. and Matsushima, again, a statement that the combination would be obvious "for preventing leakage of the exhaust gas". (Page 7) However, the Examiner has not shown that Matsushima's design has a problem of leakage such that they would want to increase the cost of the device by including a gasket to address the problem. As mentioned above, the reliance upon Celerier et al. is not discussed in the Office Action and is therefore not known to the Applicants.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and withdrawal of the objection(s) and rejection(s) and allowance of the case are respectfully requested.

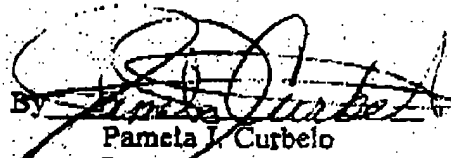
BEST AVAILABLE COPY

DP-305003

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

CANTOR COLBURN LLP

By 
Pamela J. Curbelo
Registration No. 34,676

Date: April 18, 2005
CANTOR COLBURN LLP
55 Griffin Road South
Bloomfield, CT 06002
Telephone (860) 286-2929
Facsimile (860) 286-0115
Customer No.: 23413